

MDR Tracking Number: M5-04-3048-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 05-14-04.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The work hardening-initial and work hardening each additional hour were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

This Findings and Decision is hereby issued this 3rd day of August 2004.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 08-04-03 through 09-25-03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 3rd day of August 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/dlh

August 2, 2004

NOTICE OF INDEPENDENT REVIEW DECISION
Amended Letter

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___ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The ___ IRO Certificate Number is 5348. Texas Worker's Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent review of a Carrier's adverse medical necessity determination. TWCC assigned the above-reference case to ___ for independent review in accordance with this Rule.

___ has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing chiropractor on the ___ external review panel who is familiar with the condition and treatment options at issue in this appeal. The reviewer has met the requirements for the ADL of TWCC or has been approved as an exception to the ADL requirement. The ___ chiropractor reviewer signed a statement certifying that no known conflicts of interest exist between this chiropractor and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for a determination prior to the referral to ___ for independent review. In addition, the ___ chiropractor reviewer certified that the review was performed without bias for or against any party in this case.

Clinical History

This case concerns a 23 year-old male who sustained a work related injury on _____. Initially the patient was treated with medications and returned to work. The patient reported that on 3/10/03 he had experienced an exacerbation of his condition. The patient reported to the treating facility on 3/24/03 for further treatment. The patient had undergone a MRI of the lumbar region on 3/20/03 and an EMG on 4/10/03, both were reported as normal. The patient began a course of physical medicine treatment that included active and passive therapy, range of motion and muscle testing. The patient then participated in a work hardening/conditioning program.

Requested Services

Work Hardening-initial, Work Hardening-each additional hour from 8/4/03 through 9/25/03.

Documents and/or information used by the reviewer to reach a decision:

Documents Submitted by Requestor:

1. Letter of Medical Necessity 6/25/03
2. MRI report 3/20/03
3. EMG report 4/10/03
4. Work Hardening Notes 8/4/03 – 9/25/03

Documents Submitted by Respondent:

1. No documents submitted

Decision

The Carrier's determination that these services were not medically necessary for the treatment of this patient's condition is overturned.

Rationale/Basis for Decision

The ___ chiropractor reviewer noted that this case concerns a 23 year-old male who sustained a work related injury on ___. The ___ chiropractor reviewer also noted that on 3/24/03 the patient had sought treatment for an exacerbation of his condition that included physical medicine treatment consisting of active and passive therapy, range of motion and muscle testing followed by a work hardening/conditioning program. The ___ chiropractor reviewer indicated that the patient underwent passive treatment from 3/24/03 through the end of 5/03 with positive objective and subjective improvement. The ___ chiropractor reviewer noted that the patient plateaued in his progress. The ___ chiropractor reviewer also noted that following an FCE showing the patient to not be at maximum medical improvement, the patient began a work hardening/conditioning program. The ___ chiropractor reviewer indicated that the patient made notable objective improvement but failed to demonstrate subjective improvement. The ___ chiropractor reviewer explained that the work hardening/conditioning program was required to attempt to bring the patient to the next level of recovery to return him to work. The ___ chiropractor reviewer also explained that work hardening/condition is an excellent way to facilitate this. Therefore, the ___ chiropractor consultant concluded that the Work Hardening-initial, Work Hardening-each additional hour from 8/4/03 through 9/25/03 were medically necessary to treat this patient's condition.

Sincerely,